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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,236	10/11/2005	Andrzej Czernecki	POL0006-US	7143
36183 7590 02/15/2008 PAUL, HASTINGS, JANOFSKY & WALKER LLP 875 15th Street, NW Washington, DC 20005				
EXAMINER				
ROGERS, DAVID A				
ART UNIT		PAPER NUMBER		
2856				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/525,236

Applicant(s)

CZERNECKI ET AL.

Examiner

DAVID A. ROGERS

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 2/22/05, 6/1/06

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 U.S.C. § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 5-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Polish Patent Application 325795 to Czernecki *et al*¹.

The pipette in Czernecki *et al.* is essentially described as being the same as the present application. In particular, a vast majority of the Czernecki *et al.* reference is cited in the applicant's priority document.

Czernecki *et al.* teaches a pipette having a handle (reference item 1), a shaft (reference item 2), a tip (reference item 3), a plunger (reference item 4), a knob (reference item 12), and an adjustment screw (reference item 10). The pipette further comprises an optical detection system (reference item 18), an encoder dial (reference item 19), an electronic system (reference item 20), and a display (reference item 21) for monitoring the position of the adjustment screw based on the number of pulses counted by the optical system. In Czernecki *et al.* the pipette is calibrated by turning the adjustment screw, and an nth-order

¹ Polish Patent Application 325795 issued as Polish Patent 186037 B1. Polish Patent 186037B1 (cited on Form PTO-892) shows that the application originally published on 25 October 1999.

polynomial; i.e., function, is stored in the electronic system in order to convert the pulses to a volume of liquid.

With regard to claim 6 Czernecki *et al.* teaches that it is known to store polynomials for various types of liquids.

With regard to claim 7 the polynomial(s) are dependent on factors that influence the value of aspirated liquid.

With regard to claim 8 the date of change is entered into the electronics and is displayed.

Claim Rejections - 35 U.S.C. § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Polish Patent Application 325795 to Czernecki *et al.* in view of United States Patent Application Publication 2003/0026581 to Sharp *et al.*

The pipette in Czernecki *et al.* is essentially described as being the same as the present application. In particular, a vast majority of the Czernecki *et al.* reference is cited in the applicant's priority document.

Czernecki *et al.* teaches a pipette having a handle (reference item 1), a shaft (reference item 2), a tip (reference item 3), a plunger (reference item 4), a

knob (reference item 12), and an adjustment screw (reference item 10). The pipette further comprises an optical detection system (reference item 18), an encoder dial (reference item 19), an electronic system (reference item 20), and a display (reference item 21) for monitoring the position of the adjustment screw based on the number of pulses counted by the optical system. In Czernecki *et al.* the pipette is calibrated by turning the adjustment screw, and an *n*th-order polynomial is stored in the electronic system in order to convert the pulses to a volume of liquid. Czernecki *et al.* does not expressly teach the use of a lookup table.

Lookup tables are well-known alternatives for polynomials. See, for example, Sharp *et al.* where it is stated:

In accordance with further aspects of the present invention, the voltage and attenuation levels are recorded. A calibration reference is then generated based on the voltage and attenuation levels. The calibration reference can take the form of at least one lookup table, at least one plotted curve, at least one data set, or at least one empirical equation.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Czernecki *et al.* with the teachings of Sharp *et al.* in order to provide a look-up table in lieu of a polynomial in order to determine the volume of a liquid that is to be aspirated as the substitution of one known method (stored polynomials) for another (stored lookup tables) would have yielded predictable results to one of ordinary skill.

With regard to claim 2 Czernecki *et al.* teaches that it is known to store polynomials for various types of liquids.

With regard to claim 3 the polynomial(s) are dependent on factors that influence the value of aspirated liquid.

With regard to claim 4 the date of change is entered into the electronics and is displayed.

With regard to claim 10 official notice is hereby taken that reminders are operators are well known so that a user can visually see what direction will cause a specific result. The use of such reminders would have been an obvious expedient to remind a user that when turning the known adjustment knob in a specific direction will cause an increase (or decrease) in the stroke length (L_1).

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID A. ROGERS whose telephone number is (571)272-2205. The examiner can normally be reached on Monday - Friday (0730 - 1600). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David Rogers/
Examiner - Group Art Unit 2856